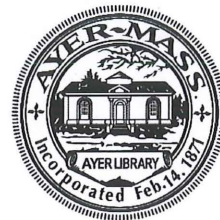


Town of Ayer
Zoning Board of Appeals
Ayer Town Hall
1 Main Street
Ayer, MA 01432



Recorded by APAC

Wednesday August 18, 2021
Open Session Meeting Minutes

Present: Samuel A. Goodwin Jr., Chair; Michael Gibbons, Vice-Chair; Ron Defilippo, Clerk; John Ellis; Jess Gugino

Also Present: Carly Antonellis, Assistant Town Manager

Call to Order: S. Goodwin called the meeting to order at 6:00 PM. He stated that members of the public are welcome to attend this in-person meeting and that while an option for remote attendance and/or participation is being provided as a courtesy to the public, the meeting/hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast.

Approval of Agenda:

Motion: A motion was made by J. Ellis and seconded by M. Gibbons to approve the agenda as printed.

Motion passed 5-0.

Continued from July 21, 2021 - Public Hearing – Application for Variance – Felipe Goncalves for Jeffrie & Felicity Turgeon - 62 Sandy Pond Road (Filed June 15, 2021): S. Goodwin reopened the hearing. Applicant is seeking a Variance pursuant to Ayer Zoning Bylaw (2019, as amended) Section 6.2 to allow for a 24'9" rear yard setback where 25' is required for home addition. C. Antonellis noted that the applicant was not in attendance, but that the variance request was very straightforward. She noted that the variance request was for 3 inches on the rear yard setback due to an error made by the contractor when pouring the foundation.

Motion: A motion was made by J. Ellis and seconded by M. Gibbons to approve the variance pursuant to Ayer Zoning Bylaw (2019, as amended) Section 6.2 to allow for a 24'9" rear yard setback where 25' is required for home addition. **Motion passed 5-0.**

Motion: A motion was made by S. Goodwin and seconded by M. Gibbons to close the public hearing at 6:06 PM. **Motion passed 5-0.**

Continued from July 21, 2021 - Request for Extension of Special Permit – Air 22, LLC – 22 Fitchburg Road: Laura O'Kane was in attendance on behalf of Geronimo Properties. She explained that Air 22, LLC was seeking an extension of their special permit (originally granted July 19, 2017; on May 15, 2019 extended until July 19, 2021) for a drive-thru for property located at 22 Fitchburg Road. C. Antonellis explained that in consultation with Town Counsel, the permit will expire on July 28, 2021 but it has been tolled pursuant to Chapter 53 of the Acts of 2020 so it will not expire until November 2, 2022 (462 days added on – the amount of days the State of Emergency was in effect). She is recommending that the ZBA issue an extension until November 2, 2022, as that would be good cause in accordance with the Act.

Motion: A motion was made by S. Goodwin and seconded by M. Gibbons to extend the Special Permit until November 2, 2022. **Motion passed 5-0.**

Approval of Meeting Minutes:

Motion: A motion was made by S. Goodwin and seconded by R. Defilippo to approve the meeting minutes July 21, 2021. **Motion passed 3-0.**

Update on 40B – 65 Fitchburg Road: C. Antonellis informed the ZBA that the project developer had submitted the project eligibility application to DHCD for review and that the Town had 30 days to provide initial comments. The developer will be attending an upcoming land use meeting and a Select Board meeting to provide the project overview.

Public Hearing – Application for Special Permit – Mark Fermanian - 236 Snake Hill Road (Filed July 23, 2021):

S. Goodwin opened the public hearing at 6:15 PM by reading the public hearing notice as advertised in the Nashoba Valley Voice on July 30, 2021 and August 6, 2021. Applicant is seeking a Special Permit pursuant to Ayer Zoning Bylaw (2019, as amended) Section 5.2.1.2 to allow for the construction of a two-family/duplex residence in the A-2 zone. Cal Goldsmith from GPR was in attendance on behalf of the applicant. He stated that the requirements for a duplex in this zoning district is 24,000 square feet. He stated that the lot was 113 square feet bigger than that. The lot meets all the other setbacks. C. Goldsmith said that the duplex allows for a more affordable housing option to benefit the community. J. Ellis asked if it was subsidized. C. Goldsmith stated no. He stated that the owner Mr. Fermanian lives right next door.

Craig Fillebrown, 238 Snake Hill Road stated that he was totally against the proposed duplex because the former tenants in the prior dwelling did not take care of the property, noting that there was trash and multiple dogs.

Rhonda Connors, 240 Snake Hill Road, was concerned because the previous house had trash in the yard and was not properly maintained. She stated it was a quiet neighborhood with potential development at Stratton Hill. She is concerned that a duplex will add to the traffic.

C. Goldsmith added that this was allowed under Zoning with a Special Permit. S. Goodwin stated that the issue was whether or not the duplex was detrimental to the neighborhood.

J. Ellis stated that he does not have a lot of grounds to be against it. R. Defilippo stated that he does not feel that this keeps with the character of the neighborhood. J. Gugino stated that a two-family home was not consistent with the neighborhood, but noted it was a permitted use by Special Permit. She also stated that the issues with the former tenants were not the purview of the ZBA.

Mr. Fillebrown stated that they have always had problems with the neighbors either burning furniture or lighting off fireworks.

C. Goldsmith stated that in relation to density, that in this Zoning District, only requires 12,000 square feet to build a single-family home and noted that to build a duplex requires 24,000 square feet, which they meet.

M. Gibbons asked how many duplexes were in this neighborhood. ZBA members said zero. M. Gibbons is concerned with the character of the neighborhood.

Ms. Connors asked if the owner was allowed to do this would other owners be able to bring in duplexes. S. Goodwin stated that all applications were stand alone.

S. Goodwin stated that there are no legitimate reasons why would deny, but the duplex does not fit into the neighborhood characteristics.

There was other general discussion.

C. Goldsmith asked whether it would be worth it having Mr. Fermanian in attendance to further discuss the application. C. Goldsmith stated that he wanted to give Mr. Fermanian every opportunity to explain the application.

Motion: A motion was made by S. Goodwin and seconded by M. Gibbons to continue the Public Hearing until 6:00 PM on September 15, 2021. **Motion passed 4-1.**

Public Hearing – Application for Special Permit – Northeast Site Development, LLC. - 128 and portion of 0 Washington Street (Filed July 28, 2021): S. Goodwin opened the public hearing at 6:51 PM by reading the public hearing notice as advertised in the Lowell Sun on August 3, 2021 and August 10, 2021. Applicant is seeking a Special Permit pursuant to Ayer Zoning Bylaw (2019, as amended) Section 5.2.1.2 to allow for the construction of (2) two-family/duplex residence in the A-2 zone. Larry Beals from Beals Associates and Joe Levine from Northeast Site Development, LLC were in attendance. L. Beals made a brief power point presentation regarding the proposed special permit application. They noted that they will be going to the Planning Board for an ANR endorsement to split the lot into 2 lots, one with 27,600+/- sq. ft. and the other with 24,400+/- sq. ft. They would like to construct a duplex on each lot. L. Beals and J. Levine said that they feel the common driveway makes more sense because it is an existing curb cut and because the lot is much higher in the front and then drops down. S. Goodwin noted that the Building Commissioner recommended doing individual driveways, as opposed to a common driveway. J. Levine stated that he spoke with the Building Commissioner about it and that the Building Commissioner stated it was his personal opinion. J. Levine believes for safety and drainage it makes more sense to go with the common driveway. L. Beals then went over the Special Permit Criteria for Approval with the ZBA pertaining to the project. L. Beals did note that the sewer lines for these two duplexes will be coming from the Panther Place subdivision. S. Goodwin asked about capacity and J. Levine stated that there was more than they needed.

J. Ellis stated at first he didn't like the plan due to the proximity to the high school and middle school driveways. He then stated in light of the Panther Place subdivision going in, that these two duplexes won't make any difference. R. Defilippo stated that the proposal was adding to a very dense neighborhood. J. Gugino added in that the OSRD subdivision for Panther Place, there is public access for the open space, which she views as a community benefit. M. Gibbons stated that this proposal does not change the character of the neighborhood.

There were no abutters in attendance.

Ken Diskin from the Planning Board stated that he has a concern with whether the ZBA has the authority to authorize the Common Driveway, since the Planning Board has purview over this in their subdivision regulations. C. Antonellis stated that this was discussed with Counsel, and it was unclear about the authority for the approval of the common driveway, because these were ANR lots, not a subdivision. Counsel has recommended conditioning the Special Permit to state that the approval of the duplexes does not constitute approval of the proposed common driveway.

Motion: A motion was made M. Gibbons and seconded by J. Ellis to approve the special permit to for the construction of (2) two-family/duplex residence in the A-2 zone and does not include the approval of the driveway configuration. **Motion passed 5-0.**

Motion: A motion was made S. Goodwin and seconded by R. Defilippo to close the Public Hearing at 7:28 PM. **Motion passed 5-0.**

C. Antonellis discussed with the ZBA upcoming scheduling for the proposed 40B project. She is recommending adding the 4th Wednesday of the month to the meeting schedule, if needed. Board members agreed.

Adjournment:

Motion: A motion was made by J. Ellis and seconded by R. Defilippo to adjourn at 7:37 PM. **Motion passed 5-0.**

Minutes Recorded and Submitted by Carly M. Antonellis, Assistant Town Manager

Date Minutes Approved by ZBA: 9/15/2021

Signature of Clerk Indicating Approval: 